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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,899	07/09/2005	Thcofani Tsioris	MP-006	6202
.38051	7590	08/24/2007		
KIRK HAHN 14431 HOLT AVE SANTA ANA, CA 92705			EXAMINER KENNY, DANIEL J	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 08/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,899	<b>Applicant(s)</b> TSIORIS, THEOFANI	
	<b>Examiner</b> Dan Kenny	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-20 and 23 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 10, 20 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8 and 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>16 September 2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 4-7, 10, 20, and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species, there apparently being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply. The traversal is on the grounds that the Figures in the application do not limit the claims, and that the cited patent does not have a mesh cover. This is not found persuasive because lack of unity requires identifying which claims corresponds to which invention except for species (similar to US practice), and apart from whether the cited patent has a mesh cover, US Patent 4,769,526 includes a mesh cover as broadly recited.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 9/16/2005 was considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groom (6,393,770) in view of Taouil (4,769,526).

Groom discloses a screen applied to overlay a gutter on an outside edge of a roof of a building said screen comprising:

**Claim 1** - a panel of generally planar mesh affixed along one edge of the panel to the roof and along the opposite edge of the panel to the top outside edge of the gutter with the panel adapted to prevent the entry of leaves and other tree debris into the gutter while allowing water to flow through the mesh and into the gutter, the mesh being formed of molded plastics material.

Groom does not expressly disclose the panel having an electrically powered heating strand extending along the panel in the direction of said one edge of the panel.

However, it is well known in the art to provide gutter screens, of the type claimed, with heating strands for melting ice. Reference Taouil teaching a screen with such a strand (28, 29). Therefore, it would have been obvious and well within the level of one skilled in the art at the time the present invention was made to modify the screen of

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Groom using the electrically powered heating strand extending along the panel in the direction of said one edge of the panel of Taouil for melting ice.

**Claim 2** – the mesh is formed of a plastic material (col. 4, lin 58).

**Claim 3** - the heating strand is a wire having an electrically insulating coating (29) thereon.

**Claim 19** - the mesh is affixed to the gutter by means of screws (col. 4, line 58) through the flat strip portion.

**Claim 11** - the mesh comprises:

a top face and a bottom face on respective opposite sides of the mesh, a first array of parallel strands, hereinafter called longitudinal strands, aligned in the direction of said one edge of the panel, and a second array of parallel strands, hereinafter called lateral strands, integrally moulded with and aligned at right angles to the first array, said first and second arrays of strands defining mesh apertures therebetween extending from said top face to said bottom face, the thickness of the longitudinal strands extends for substantially the full thickness of the mesh from said top face to said bottom face, and the thickness of the lateral strands extends along their full length, from said top face to less than 80% of the thickness of the mesh.

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**Claim 12** - .the lateral strands spaced closer to each other than the longitudinal strands (col. 3, line 47).

**Claim 13** - oval shape apertures with their longer axis parallel to the lateral strands (see Fig. 3).

**Claim 14** - a flat strip portion lying along said opposite edge of the panel and parallel to the longitudinal strands, said strip portion being substantially flat on its top face which blends gently with said top face of the remainder of the mesh (col. 3, lines 42-45).

**Claim 15** - the lateral strands made from a stiffer material than that from which the longitudinal strands are made (col. 6, lines 4-9).

**Claim 16** - the lateral strands formed from a material having a greater elastic resilience than the material from which the longitudinal strands are made (col. 3, line 8).

**Claim 17**- the lateral strands are high density polyethylene and the longitudinal strands are a mixture of low density polyethylene and high density polyethylene and the mesh is formed using a plastics co-extrusion process (col. 3, lines 10-15).

**Claim 18** - The screen according to claim 14 wherein the mesh is affixed to the gutter by means of mating strips of a textile hook and loop fastening system adhered to said flat strip portion and to said top outside edge of the gutter (col. 6, line 48).

**Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Groom in view of Taouil and in further view of Williams et al. (5,124,534).

Groom in view of Taouil discloses all the claimed elements as described above, except the heating strand retained by clips which are in turn themselves retained within holes through the mesh.

However, it is well know in the art to provide clips retained by a mesh to hold a strand. Reference Williams et al. teaching a structure wherein clips (14) are retained by a mesh (frames, 62, and support rods, 30, represent a mesh as broadly recited) to hold a heating strand (12). Therefore, it would have been obvious and well within the level of one skilled in the art at the time the present invention was made to modify the screen of Groom in view of Taouil using the clips retained by a mesh to hold a strand as taught by Williams et al. as an efficient, secure and reliable strand fastening assembly.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kenny whose telephone number is (571) 272-9951. The examiner can normally be reached on Monday thru Friday, 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DK D.K.

8/16/2007

  
Jeanette Chapman  
Primary Examiner